

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

SELWYN BROWN,
Plaintiff

v.

JOHN WETZEL, et al.,
Defendants

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No. 1:21-cv-01436

(Judge Kane)

ORDER

AND NOW, on this 30th day of September 2022, upon consideration of Defendants’ pending motion to dismiss and/or motion for summary judgment (Doc. No. 12) and Plaintiff’s motions to stay the proceedings (Doc. Nos. 16, 17), and in accordance with the Court’s accompanying Memorandum, **IT IS ORDERED THAT:**

1. Defendants’ motion to dismiss and/or motion for summary judgment (Doc. No. 12) is **GRANTED in part** and **DENIED in part** as follows:
 - a. Defendants’ motion is **GRANTED** as to Plaintiff’s failure to exhaust his claims against Defendants John Wetzel, Karen Merritt-Scully, and Kevin Kauffman, and as to Plaintiff’s claim concerning the NGE National Newspaper. The Clerk of Court is directed to defer the entry of judgment in favor of these Defendants until the conclusion of the above-captioned action;
 - b. Defendants’ motion is **GRANTED** as to Plaintiff’s Eighth Amendment claim;
 - c. Defendants’ motion is **GRANTED** as to Plaintiff’s Fourteenth Amendment procedural and substantive due process claims;
 - d. Defendants’ motion is **GRANTED** as to Plaintiff’s 42 U.S.C. § 1983 (“Section 1983”) conspiracy claims;
 - e. Defendants’ motion is **DENIED** as to Plaintiff’s failure to allege the personal involvement of Defendant Walker under Section 1983;
 - f. Defendants’ motion is **GRANTED** as to Plaintiff’s Religious Land Use and Institutionalized Persons Act (“RLUIPA”) claim for damages against Defendants in their individual capacities;

- g. Defendants' motion is **DENIED** as to Plaintiff's First Amendment claim concerning free exercise of religion;
 - h. Defendants' motion is **DENIED** as to Plaintiff's RLUIPA claims for injunctive and declaratory relief against Defendants in their official capacities;
 - i. Defendants' motion is **DENIED** as to Plaintiff's Fourteenth Amendment equal protection claim;
- 2. Plaintiff's motions to stay the proceedings (Doc. Nos. 16, 17) are **DENIED**;
 - 3. Plaintiff is **GRANTED** leave to file an amended complaint as to the following claims: his Fourteenth Amendment procedural due process claim against Defendant Walker and his Section 1983 conspiracy claim against Defendant Walker; and
 - 4. Plaintiff, should he elect to do so, shall file his amended complaint within **thirty (30) days** of the date of this Order. Because an amended complaint supersedes an original complaint, Plaintiff's amended complaint must also set forth his other surviving claims (*i.e.*, his First Amendment claim, his Fourteenth Amendment equal protection claim, and his RLUIPA claim for injunctive and declaratory relief). If, however, Plaintiff would simply like to proceed to discovery with the surviving claims in his original complaint, he is free to file a letter with the Court within the thirty (30) days, stating that he would like to proceed on the surviving claims in his original complaint. If Plaintiff fails to file such a letter or an amended complaint, or an extension of time to do so, within the thirty (30) days, then this matter will automatically proceed on his original complaint with respect to his First Amendment free exercise of religion claim, Fourteenth Amendment equal protection claim, and RLUIPA claim against Defendant Walker.

s/ Yvette Kane
Yvette Kane, District Judge
United States District Court
Middle District of Pennsylvania